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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/086,146	02/28/2002	Robert F. Bigelow JR.	0112300-740	4138

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EXAMINER	
MOSSER, ROBERT E	
ART UNIT	PAPER NUMBER
3714	

DATE MAILED: 11/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/086,146	BIGELOW ET AL.	
	Examiner	Art Unit	
	Robert Mosser	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *Januaray 19th, 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-62* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) *1-62* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

♦

In response to the amendment filed July 19th, 2004.

Claims 1-62 are pending.

This action is final.

The examiner's statements of official notice in the non-final action dated January 15th, 2004.have not been challenged in the reply and are now held as applicant admitted prior art.

♦

Affidavit under CFR 1.131

The Affidavit filed on July 17th, 2004 under 37 CFR 1.131 has been considered but is ineffective to overcome the Locke et al (USP 6,561,904) reference.

The Locke et al reference is a U.S. patent or U.S. patent application publication of a pending or patented application that claims the rejected invention. An affidavit or declaration is inappropriate under 37 CFR 1.131(a) when the reference is claiming the same patentable invention, see MPEP § 2306. If the reference and this application are not commonly owned, the reference can only be overcome by establishing priority of invention through interference proceedings. See MPEP Chapter 2300 for information on initiating interference proceedings. If the reference and this application are commonly owned, the reference may be disqualified as prior art by an affidavit or declaration under 37 CFR 1.130. See MPEP § 718.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims **1, 3-4, 6, 39, 41-43, 52-53** and **61-62** are rejected under 35 U.S.C. 102(e) as being anticipated by ***Locke*** et al (6,561,904).

Regarding claims **1, 3-4, 6, 39, 41-43, 52-53** and **61-62**, Locke teaches a gaming device that comprises a plurality of reels (Fig 4); a plurality of symbols on the reels (Fig 4); a triggering event associated with at least one of the symbols or a combination of the symbols occurring on the reels (Abstract); a plurality of free spins of the reels (Abstract); a plurality of multipliers associated with the free spins of the reels(Abstract); and a processor which controls the reels whereupon an occurrence of the triggering event on the reels, the processor provides the free spins of the reels to a player and determines an award, if any, to provide to the player for each free spin based upon the symbols occurring on the reels from the free spin and the multiplier associated with the free spin, wherein the multiplier changes at leas once during the free spins (abstract; col. 1, lines 49-62; col. 2,lines 55-67).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims **2, 5, 7-38, 40, 44-51** and **54-60** are rejected under 35 U.S.C. 103(a) as being unpatentable over ***Locke*** et al (6,561,904).

Regarding claims **2** and **40**, Locke teaches the limitations of the claims as recited above. Locke is silent regarding the number of the free spins being predetermined. The examiner takes notice that it is well known in the art to have features preset/predetermined in slot machines. This makes it easier to predict outcomes and payouts for the gaming establishment. Therefore results in the gaming establishment not losing excessive amounts of money. It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify Locke to include this feature for this reason.

Regarding claims **5** and **44**, Locke teaches the limitations of the claims as recited above. Locke is silent regarding the feature of the number of free spins being determined by the player choosing masked selections. The examiner takes notice that it is well known for the players to choose masked selections in a slot gaming device. It increases the element of surprise; thereby increasing player participation and anticipation. It would have been obvious to a person of

ordinary skill in the art at the time of the invention to include this feature in Locke with the free spin feature for these reasons.

Regarding claims **7-13, 15, 17, 45-51**, and **54-57**, Locke teaches the limitations of the claims as recited above. Locke is silent regarding the explicit teaches of the multiplier features as disclosed in the instant claims. It would have been obvious to a person of ordinary skill in the art at the time of the invention to include random increases of the multipliers associated with the free spins in order to make the payout less predictable for the players thereby promoting increased play and excitement.

Regarding claims **14, 16, 31-38**, and **58-60**, Locke teaches all the limitations of the claims as discussed above. Locke lacks teaching an incrementor symbol. It would have been obvious to a person of ordinary skill in the art at the time of the invention to employ this symbol as one of the symbols of Locke in order to provide increased excitement and anticipation of the game. This would merely involve programming the software to include this symbol with the current symbols of Locke.

Regarding claims **18-30**, Locke teaches all the limitations of the claims as discussed above. Locke is silent on the feature of a consolation prize. However, the examiner takes notice that it is known in the art to give consolation prizes in the gaming art. This provides the players with a cheerful feeling in the event of monetary losses; thereby, making the player want to play the game again and risk wagering. Therefore, it would have been obvious to a person of ordinary skill

in the art at the time of the invention to incorporate this feature into Locke for this reason.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Mosser whose telephone number is (703)-305-4253. The examiner can normally be reached on 8:30-4:30 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris H Banks can be reached on 703-308-1745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

REM

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TECHNOLOGY CENTER 3700